

M I N U T E S
SANDY CITY COUNCIL MEETING
Sandy City Hall - Council Chamber Room #211
10000 Centennial Parkway
Sandy, Utah 84070
April 17, 2007

Meeting was commenced at 7:00 p.m.

PRESENT:

Council Members: Chairman Dennis Tenney, Vice Chairman Bryant Anderson, Scott Cowdell, Steve Fairbanks, Chris McCandless, Linda Martinez Saville, and Stephen Smith

Mayor: Tom Dolan

Others in Attendance: CAO Byron Jorgenson; City Attorney Walter Miller; Public Works Director Rick Smith; Assistant CAO Scott Bond; Council Office Director Phil Glenn; Council Office Manager Pam Lehman; Council Executive Secretary Wendy Densley

*****COUNCIL MEETING*****

1. OPENING REMARKS/PRAYER/PLEDGE:

The Prayer was offered by **Councilman Bryant Anderson**, and the Pledge was led by **Councilman Scott Cowdell**.

2. SPECIAL PRESENTATION: TREE CITY USA PRESENTATION

Parks and Recreation Director Nancy Shay, along with Parks Supervisor Mike Marett were present to recognize Sandy City, for the 5th consecutive year, as a participant in the USA Tree City Program. Recognition is given to communities who excel in the management of tree resources in the community. Mr. Marett, who is an accredited and certified arborist, assists the city with his skills in managing the various types of trees planted throughout the city.

Mayor Dolan expressed his appreciation to **Mike Marett**, and the **Parks Department** for their involvement with the Tree City USA program, and the difference it has made to the look of our community, and the awareness of the importance of trees in our community.

Mike Marett expressed appreciation to Mayor Dolan, the City Council, and Departments Heads for their support in providing the opportunity to implement the Tree USA plan in the community.

3. CITIZEN(S) COMMENTS:

- a. Lorraine Griffin**, 190 East 1170 South, expressed frustration over the information that is being circulated regarding the proposed ReAL Soccer Stadium, and the State's portion of funding allocated from the transient room tax plus public safety concerns regarding pedestrian and traffic flows. She does not believe that tax dollars should be spent on a profit making enterprise when there are no guarantees this soccer league will be successful in the State. This will leave the taxpayers stuck with a stadium, which in her opinion will become a "white elephant".

Mayor Dolan reported that transient room tax was specifically earmarked by the Legislature to be used to fund the soccer stadium, and those funds could be spent on infrastructure, land costs, and other improvements at the soccer stadium.

Byron Jorgenson stated that ReAL would be responsible for hiring special officers for security and traffic control issues at the stadium.

Bryant Anderson explained that the 10 million in tax increment funding pledged by Sandy City would come from property taxes generated from the stadium, not from other taxpayers.

- b. Barbara Peterson**, 1054 East 8600 South, stated that there is already inadequate parking for the events at the Expo Center, and strongly believes that the parking needs at the Expo Center should be addressed by the City before the soccer stadium. She felt that with traffic already generated from events at the Expo Center, along with the projected 20,000 people attending soccer events, severe traffic problems will be created for the area. " She believes the soccer stadium will only provide a service for an elite group of people, not the general public. "

Bryant Anderson explained that the County was originally allocated 20 million dollars for parking facilities at the Expo Center, and did not build them. ReAL will create substantial new parking opportunities. Mr. Anderson stated that his children grew up in Sandy and participated in the soccer programs offered in the community. They are excited that the soccer stadium will be built, and none of them are wealthy.

Dennis Tenney stated that the main beneficiaries of the tax revenue generated from the soccer stadium would be the schoolchildren, who Mr. Tenney stated "are in no way elitists". Some \$110,000,000 can be generated for the school district.

- c. **Cathy Clayton**, 10361 Golden Willow Drive, business owner Butterfield Gardens, 9107 South 150 West, stated that the petition fell short on signatures to place an initiative on the November ballot to vote on funding for the soccer stadium. She questioned whether adequate parking has been planned for the soccer stadium, and wondered where people will park once it opens.

Bryant Anderson reported that ReAL conducted a survey that shows some 7-9,000 parking stalls with existing businesses, that would be available within a 15 minute walk from the stadium. ReAL would be responsible to negotiate with businesses on the use of their parking stalls for soccer stadium events.

Ms. Clayton asked if the City has given ReAL a deadline on the negotiations with businesses for use of their parking stalls.

Bryant Anderson stated that terms would need to be negotiated and finalized 120 days prior to the stadium opening.

Assistant Community Development Director Nick Duerksen reported that State Statutes require that ReAL provide 1,000 parking stalls within a 5 minute radius or on site at the stadium in order to receive their portion of funding. The remaining balance of the required 5300 stalls would be negotiated with property and business owners through contracts. He reported that a number of businesses have contacted the City expressing an interest in allowing their parking facilities to be utilized for soccer stadium parking. ReAL will be required to provide an adequate parking plan that meets the expectations of the City Council and Planning Commission, prior to receiving funding from the City.

He reported that the soccer stadium would schedule 9-10 home games, with additional planned events such as concerts and high school sporting events. He wondered why the residents would want a sea of asphalt sitting vacant during off-season times. Spreading the parking out would be the best scenario for the City.

Ms. Clayton again questioned why the State would fund a facility that is only going to be operational for a portion of the year. She stated "Sandy is already a mess when it comes to traffic, and adding a soccer stadium to the mix will not help".

Dennis Tenney noted that the City would be preparing an informational brochure to distribute to the residents of Sandy explaining the many benefits associated with having the Soccer Stadium in the City.

As there were no further comments, Chairman Tenney closed Citizen Comments.

PUBLIC HEARING(S):

4. **Street Vacation/Closure – Union Park Avenue East Frontage Road**

Public Hearing to consider a request by Mr. Dan Christensen, Representing Park Avenue Partners, LLC, to vacate or otherwise close the frontage road located on the east side of Union Park Avenue at approximately 7675 South to 7701 South to enable him to acquire approximately .397 acres of the property and incorporate it into his development.

Background

Mr. Dan Christensen, representing Park Avenue Partners, L.L.C., has filed a request that the City Council close the frontage road located on the east side of Union Park Avenue to enable him to acquire a portion of it and incorporate it into his development. Cirrus Properties has also indicated a possible interest in making an offer on portions of the road. It is proposed that this property be closed, divided into two sections (north and south), so that the land area associated with this right-of-way may be sold for appropriate development.

The Planning Commission held a public meeting on February 16, 2006. The Planning Commission determined that preliminary review was complete and approved a conditional use permit for the Village @ Park Avenue site plan. On

May 4, 2006 a revised preliminary review was reviewed and determined to be complete with a number of conditions of approval. One of the approved conditions required the developer to proceed through the road closure process with Sandy City for closure and sale of the existing frontage road property along Union Park Ave.

Sandy City Ordinance requires that the Planning Commission review all requests to modify a public street, and to make a recommendation to the City Council. The City Council is required to hold a public hearing prior to making a final decision.

LEGAL DESCRIPTION

The proposed closure is described as shown in **Exhibit "A"**. The area under consideration is currently being used as an existing right of way (frontage road) that services a number of the existing properties that are currently located on the east side of Union Park Ave.

ANALYSIS

The proposed frontage road to be closed is located between approximately 7675 and 7715 South (east of Union Park Avenue). Currently, this frontage road provides access to a number of existing properties. The road was originally part of Union Park Ave (then called 13th East). When Union Park was realigned this portion was not needed for the road. It was then built as a frontage road to allow access to the 4 or 5 adjacent duplex lots and to provide an alternative to having each separate duplex lot from having a separate driveway directly accessing Union Park Avenue. Union Park Avenue is a very busy street and the City and owners of the lots agreed that access to a frontage road was more safe than direct access to Union Park Ave. With the approval of the site plan for the Village @ Park Avenue, the northern portion of the subject property is no longer needed as a public street. The southern portion may not be necessary if it is integrated into a development that may be proposed in the future on the Cook and Cirrus properties.

The determination as to how the property is disposed of and to whom is determined in compliance with the City and State law.

GENERAL PLAN COMPLIANCE

The closure of this frontage road east of Union Park Avenue is consistent with the following Goal and Policy:

GOAL: Design Transportation Facilities To Assure Even and Efficient Traffic Flow Throughout The Community.¹

³ Required Street are classified as follows: Major Arterial, Minor Arterial, Major Collector, Minor Collector. Source: Master Transportation Plan Element, Sandy City General Plan, adopted September 1996.

POLICY: Conduct a continual evaluation of the road system to insure that proposed and existing road designs will adequately serve the functional needs of the community.²

This frontage road is not classified as a required street³ on the Master Transportation Plan maps. Closure of this section of the street will not affect the implementation of the General Plan nor the required street system.

This street is not specifically identified as a necessary public facility or property for the necessary purposes of carrying out the General Plan. This closure also would not be contrary to the General Plan, nor is it necessary to carry out other City projects.

Citizen and Other Issues

¹ Master Transportation Plan Element, Sandy City General Plan. Adopted September 1996. Goal and Policy found on page 5-12.

² id

Staff has the following concern regarding this proposal as submitted by the applicant:

1. The entire frontage road may be vacated or closed. It is recommended that the northern portion be sold to the developer of the Village @ Park Avenue. The southern portion may be closed now, retained as a public right-of-way until such time as a site plan has been approved and an application for closure has been submitted for the southern portion of the road or retained as public right of way to serve a future development.

Staff Recommendation

Staff recommended that the Planning Commission forward a positive recommendation to the City Council to consider all the options and to close at a minimum the northern portion of the frontage road that is located on the East side of Union Park Avenue between approximately 7675 and 7715 South as described in Exhibit "A", attached for the following reasons: This right-of-way is not needed for regular vehicle traffic and does not appear on the official Sandy City Street Map.

- I. The site of the Village @ Park Avenue is a very narrow site and without the proposed closure, the property owners would be severely limited on what could be built on the site due to the steep grades on the east side of the property.
- I. The City will benefit from the development of this currently underutilized property.
- I. Neither the public interest nor any person will be materially injured by the proposed closure because all parcels will continue to have public access.

Discussion: City Attorney Wally Miller reported that the City Council heard this issue back in August of 2006, and the Council tabled action on this item until certain legal issues were resolved, or until the City felt that it would be prudent to proceed.

Since that time, laws pertaining to street vacations/ closures have changed. The Legislature approved House Bill 129- Substitute- Land Use Provisions. This bill deals primarily with vacating of streets and alleys, and changing the recommending bodies for these types of land use issues to the Planning Commission and City Council, and making the land use authority the chief executive officer or Mayor.

Staff believes that it would be prudent for the Mayor to be designated as the Land Use Authority, and the one who would make decisions regarding road and street closures. The City Council would serve as an advisory board to the Mayor, and still continue to hold public meetings on street and road closures.

Chairman Tenney asked the applicant, Dan Christensen, if he had any additional comments that he would like to make. Mr. Christensen indicated that he had no comments at this time.

Chairman Tenney opened the Public Hearing.

Vince Rampton, representing the Cirrus Corporation, and owners of two properties immediately to the south of the proposed project, noted that litigation was underway on two aspects of the proposed project.

He addressed a concern pertaining to the road that the City is requesting to close since it provides access to the two properties that lie to the south of the proposed project. He claimed that the closure of the road would cause severe impact to the developability of his client's properties, which would be sacrificed because of Mr. Christensen's development, which is neither right nor proper.

Dan Christensen, 8483 Robadoe, stated that he disagreed with Mr. Rampton's comments. The road closure was proposed when the frontage road was created during the widening of 1300 East, which moved the roadway farther west to create a safer intersection near Forbush Lane and 1300 East. This frontage road eliminated a number of driveways entering onto 1300 East.

Mr. Christensen believes that the proposed closure would not restrict access to the properties owned by Mr.

Rampton's clients. The closure would also help mitigate maintenance costs for the City by having a private road that is maintained by the developer.

Chairman Tenney opened the public hearing. As there were no comments, the hearing was closed.

Steve Smith asked if the City Engineer has had an opportunity to look into the recommendations of the Planning Commission, also, to consider all options associated with closing the northern portion of the frontage road on the east side of Union Park Avenue. Mr. Smith asked what protocol the City Engineer follows in determining safety issues associated with a street vacation/closure and the redesign of the road.

Wally Miller recommended that the Council continue the hearing until the following week to provide an opportunity for the City Engineer to explain how the access into the proposed development will be designed, and provide the Council an opportunity to determine and implement Item #5 on the Agenda pertaining to the Code Amendment: Designating the Mayor as the Land Use Authority for street vacations/closures, since these two issues are directly related to each other.

Mr. Miller explained that the frontage road was created to provide a safer access for property owners to enter, and eliminate single entrance driveways along 1300 East. It has been the understanding that once these properties develop, the frontage road would be removed.

Chris McCandless stated that he struggles with the fact that the property owners are claiming damage to their parcels of property if the road is closed, when in fact; this property is already a challenge to develop. Mr. McCandless asked what type of liability the City could incur from the property owners if the road was closed.

Wally Miller noted that if the road was closed as proposed, additional property would be made available to the property owners from the City, which could be an enhancement to their existing properties. Mr. Miller indicated that it was the hope of the Administration that all parties will be able to come to an agreement that will benefit everyone.

Motion: Chris McCandless made the motion to continue the public hearing on the Union Park Avenue East Frontage Road – Vacation/Closure to Tuesday, April 24th, at 7:05 p.m., and invite the City Traffic Engineer to present access options onto 1300 East.

Second: Bryant Anderson

Amendment to the motion:

Steve Smith asked that the City Engineer also be invited to attend the meeting since he was specified in the Planning Commission's motion.

The Council concurred with Mr. Smith's recommendation.

Vote: McCandless- Yes, Anderson – Yes; Cowdell – Yes; Saville- Yes, Smith – Yes, Fairbanks – Yes, Tenney – Yes.

Motion Approved: All in Favor

5. Code Amendment: Designating Land Use Authority

Public Hearing to consider recommending and approving an amendment to Title 15 of the Sandy City Land Use and Development Code designating the Mayor as the city's Land Use Authority for purposes of vacating or altering public streets or alleys.

Chairman Tenney opened then closed the Public Hearing, as there were no comments.

Scott Cowdell voiced concern over what appears to be a movement to weaken the role of elected officials by taking their authority away to act on certain issues. He expressed concern that future Mayors may not be cooperative in allowing the Council to participate in the process of street

and road closures.

Mayor Dolan stated that the new ordinance would codify how the process will work for future City Councils. The City Council would act as an advisory board to the Mayor, and the only way they would not be included in the process is if the Council repealed this decision. Mayor Dolan indicated that the input from the Council is important to this process.

Wally Miller reported that State Statute requires a City Council to designate a land use authority (other than themselves) for street vacations/closures. Under this ordinance, the Mayor would be required to consult with the City Council; however, he would not be required to follow the Council's recommendations.

Motion: **Steve Smith** made the motion to have documents brought back to adopt the Code Amendment: Designating Land Use Authority, amending Title 15 of the Sandy City Land Use and Development Code designating the Mayor as the city's Land Use Authority for purposes of vacating or altering public streets or alleys.

Second: **Steve Fairbanks**

Vote: **Smith – Yes, Fairbanks – Yes, Saville- Yes, McCandless – Yes, Cowdell- No, Anderson – Yes, Tenney – Yes.**

Motion Approved: 6 in favor- 1 opposed.

COUNCIL ITEMS:

6. Cable Franchise Application Process, Further Discussion

Ordinance #07-12 – amending Title 16, "Revenue and Finance", Section 16-27-40, "Procedures for application for additional franchise requests."

Discussion: **Wally Miller** explained that the changes to the ordinance would help simplify the requirements and application process for cable television franchises. Qwest has filed a request asking that the City amend their ordinance to comply with the new FCC [Federal Communication Commission] requirements. Under the new guidelines, a franchise whose facilities are already within the public right-of-way will automatically be granted a federal franchise if cities fail to grant approval within a 90-day time frame.

Chris McCandless felt that these amendments make good business sense, which in turn would provide opportunities for new businesses to locate in the City.

Steve Smith thanked Wally Miller for the additional information provided to the Council explaining the recent FCC Ruling.

Steve Fairbanks stated that he did not believe that the City would be hurt, in the long run, by adding the FCC recommendations to our ordinance.

Phil Glenn indicated that even with the adoption of the ordinance, future-franchising applicants would still be required to submit a proposal on how they plan to deliver their services to the community. Mr. Miller concurred.

Motion: **Chris McCandless** made the motion to adopt **Ordinance #07-12** - amending Title 16, "Revenue and Finance", Section 16-27-40, "Procedures for application for additional franchise requests."

Second: **Linda Martinez Saville**

Vote: **McCandless – Yes, Saville – Yes, Smith – Yes, Fairbanks- Yes, Cowdell- Yes, Anderson – Yes, Tenney – Yes.**

Motion Approved: All in Favor

7. Citizen Committee Appointments

Resolution #07 - 19 C – appointing members to the Sandy City Parks and Recreation Committee.

Motion: **Steve Smith** made the motion to adopt **Resolution #07-19 C**, appointing **Shad Slaughter** and **Steve Edwards** to the Parks and Recreation Committee to fill terms ending at 12:00 noon on March 31, 2009.

Second: **Linda Martinez Saville**

Vote: **Smith – Yes, Saville- Yes, McCandless – Yes, Fairbanks- Yes, Cowdell- Yes, Anderson – Yes, Tenney – Yes.**

Motion Approved: All in Favor

*** **At approximately 8:00 p.m., Steve Fairbanks made the motion to adjourn City Council Meeting, motion seconded by Chris McCandless, and reconvene into Redevelopment Agency Meeting. [See Separate Agenda]**

**** **At approximately 8:50 p.m., Steve Smith made the motion to adjourn Redevelopment Agency Meeting, motion seconded by Chris McCandless, and reconvene into:**

City Council Meeting

8. **MAYOR'S REPORT:**

a. Held in Planning Meeting.

9. **CAO'S REPORT:**

a. Held in Planning Meeting.

10. **COUNCIL OFFICE DIRECTOR'S REPORT:**

a. Held in Planning Meeting.

11. **OTHER COUNCIL BUSINESS:**

a. **Chris McCandless** read an e-mail that his brother sent to Chief Chapman and Mayor Dolan expressing appreciation for the efforts of the Sandy and Layton Police Departments in resolving a very serious personal matter regarding identity theft.

At approximately 8:55 p.m., Scott Cowdell made a motion to adjourn Council Meeting, motion seconded by Bryant Anderson.

The content of the minutes is not intended, nor are they submitted, as a verbatim transcription of the meeting. These minutes are a brief overview of what occurred at the meeting.

Dennis B. Tenney
Council Chairman

Pam Lehman
Council Office Manager